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10/817,340

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EXAMINER

CHEUNG, VICTOR

ART UNIT

PAPER NUMBER

3714

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/817,340

Applicant(s)

WU ET AL.

Examiner

Victor Cheung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because line 1, "guide is disclosed to" should read --guide to--. Correction is required. See MPEP § 608.01(b).

Claim Objections

2. Claims 10, 12, 13, 42, 44, and 45 are objected to because of the following informalities:
Claims 10, 12, 13, 42, 44, and 45: "optional" should be deleted.
Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re Claims 1-49: Claims 1-49 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph. The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device

must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 and 33-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Becker et al. (US Patent No. 5,356,362).

Re Claims 1-5, 33-37: Becker et al. discloses a foot engaging means 24, body engaging means 76, and a framing structure 34 connected to the foot and body means. Regarding the language, “for guiding and engaging at least one foot of the user”, “for guiding and engaging at least one part of the user’s body”, “wherein at least... user” have not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claims 2-4, the dimensions are adjustable (Fig. 7-9). Regarding the language, “to guiding and engaging the user’s feet and body”, “thereby accommodating a pre-determined range of user body and feet variation” have not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claim 5, the body engaging means comprises a hand engaging means. Regarding the language, “for guiding and engaging at least one of user’s hands” has not been given

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patentable weight because the recitations are purely functional in nature and do not recite any structure.

7. Claims 1 and 5 rejected under 35 U.S.C. 102(b) as being anticipated by Kiser (US Patent No. 5,941,802).

Re Claims 1 and 5: Kiser discloses a foot engaging means 2, body engaging means B, and a framing structure F, S (Fig. 3) connected to the foot and body means. Regarding the language, “for guiding and engaging at least one foot of the user”, “for guiding and engaging at least one part of the user’s body”, “wherein at least... user” have not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claim 5, the body engaging means comprises a hand engaging means (Fig. 3). Regarding the language, “for guiding and engaging at least one of user’s hands” has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure.

8. Claim 1, 5, 10-13, and 42-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimojima et al. (US Patent No. 5,713,794).

Re Claims 1, 5, 12-13, 44-45: Shimojima et al. discloses a foot engaging means 120, body engaging means 118, and a framing structure 110 connected to the foot and body means. Regarding the language, “for guiding and engaging at least one foot of the user”, “for guiding and engaging at least one part of the user’s body”, “wherein at least... user” have not been given patentable weight

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because the recitations are purely functional in nature and do not recite any structure. As to claim 5, the body engaging means comprises a hand engaging means (Fig. 1). Regarding the language, "for guiding and engaging at least one of user's hands" has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. As to claims 12-13, the device comprises a display 130.

Re Claims 10-11, 42-43: A display device has been discussed above.

However, Becker et al. do not disclose a VHS, DVD, or VCD disc.

The use VHS, DVD, or VCD for displaying video is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a VHS, DVD, or VCD such that a removable storage medium can be used to display different images.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 14-16, 23-26, 31-32, and 46-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al. (US Patent No. 5,356,362), as applied to claim 1 above, and further

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in view of Johnson (US Patent Application Publication 2005/0164844) and Urso (US Patent No. 5,224,924).

Re Claims 14-15, 16, 24-26, 31-32, 46-47: Regarding the language in claim 16 lines 1-23, 38-47, and “for guiding and correctly positioning the user’s feet of stances S1, S2, S3, and S4”, “for guiding thus correctly positioning the user’s elbows of stances S3 and S4”, “for guiding thus correctly positioning the user’s fists of stances S1 and S2 through fist gripping” has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. Becker et al. discloses all of the limitations of the claimed invention except for a separate feet board, two elbow-engaging members.

Johnson teaches a separate feet board and Urso teaches a device having elbow engaging members (Fig. 10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a board for each foot so that a user has the flexibility for a variety of positions while exercising and elbow engaging members such that the members provide flexibility to the user while exercising.

As to claims 24-25, 31-32, 48-49, the language has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure.

Re Claims 23: Becker et al. disclose the material of metal (Col. 2, Line 42).

11. Claims 17 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al. (US Patent No. 5,356,362), Johnson (US Patent Application Publication 2005/0164844), and Urso

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(US Patent No. 5,224,924), as applied to claims 16 and 26 above, and further in view of Holworthy (US Patent No. 1,104,505).

Re Claims 17 and 27: Regarding the language “for guiding and correctly positioning the user’s open-palmed hand of stances S3 and S4” has not been given patentable weight because the recitations are purely functional in nature and do not recite any structure. Becker et al. discloses all the limitations of the claimed invention except for a hand loop. Holworthy teaches a hand loop. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Becker et al. in view of Holworthy such that a hand loop provides a secure grip for grasping while exercising.

12. Claims 6, 8, 18-21, 28-29, 38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al. (US Patent No. 5,356,362), as applied to claim 1 above, and further in view of Davidson (US Patent Application Publication 2004/0219498).

Re Claims 6, 8, 18, 19-21, 28-29, 38, and 40: Becker et al. does not disclose a foot or body engagement sensing and signaling means.

Davidson teaches a sensing and signaling system (Para. 9-10). As to claim 19-21 and 29, the location of the sensing and signaling means is adjustable in any space, uses a position sensor, and signals with an audible, display, or body-stimulating device (Para. 9-10).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a sensing and signaling system in Becker et al. such that the user is aware when an incorrect movement is being made.

13. Claims 7, 9, 39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al. (US Patent No. 5,356,362) and Davidson (US Patent Application Publication 2004/0219498) as applied to claims 6, 8, 38, and 40 above, and further in view of Amano et al. (US Patent No. 6,042,549).

Re Claims 7, 9, 39, and 41: Becker et al. do not disclose a timing device.

Amano et al. disclose an exercise measuring device that measures the duration of time a user is properly exercising (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a timer, thereby indicating to the user the amount of time that the user is actually accomplishing the intended task.

14. Claims 22 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Becker et al. (US Patent No. 5,356,362), Johnson (US Patent Application Publication 2005/0164844), and Urso (US Patent No. 5,224,924), as applied to claims 16 and 26 above, and further in view of Shimojima et al. (US Patent No. 5,713,794).

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Re Claims 22 and 30: Becker et al. do not disclose a stabilizing bar attached to the rear end of the backbone beam and extending substantially in the y-direction. Shimojima et al. disclose the use of a rear-stabilizing bar (Fig 9). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a rear stabilizing bar, thereby keeping the unit stable throughout the user movements.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Macri et al. (USPN 6,612,845), Jenks (USPN 2,737,432), and Romano (USPN 5,474,299) each disclose stance guides including means for engaging and guiding a plurality of body areas.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor Cheung whose telephone number is (571) 270-1349. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VC

Victor Cheung
August 30, 2007



Robert Pezzuto
Supervisory Patent Examiner
Art Unit 3714